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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,937	09/15/2000	Naoaki Kitagawa	PM 273286	1661
909	7590	11/26/2003	EXAMINER	
PILLSBURY WINTHROP, LLP			VERSTEEG, STEVEN H	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	
			1753	

DATE MAILED: 11/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/662,937		Applicant(s) KITAGAWA ET AL.	
	Examiner Steven H VerSteeg		Art Unit 1753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 24 October 2003.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-3, 9, 11-17, 20-23, 30 and 32-38 is/are pending in the application.

4a) Of the above claim(s) 1-3, 9 and 11-17 is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 20-23, 30 and 32-38 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 15 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

4) ☐ Interview Summary (PTO-413) Paper No(s). _____

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. This application contains claims 1-3, 9, and 11-17 drawn to an invention nonelected with traverse in Paper filed August 7, 2003. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 20-23, 30, and 32-38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 20 and 22 contain the limitations "having a homogeneous composition throughout a whole thickness of said thin metal film", that a "single" target is used, and the titanium and aluminum content of the target. In claims 35-38, Applicant has stated that one "or more" of the Markush items may be selected (there is support for each item individually, but not more than one; see page 12, lines 2-4). Each of the limitations could not be located in the specification as originally filed and is considered to be new matter that must be canceled.

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Claims 21, 23, 30, and 32-38 depend from claims 20 and 22 and contain all of the limitations of claims 20 and 22. Therefore, claims 21, 23, 30, and 32-38 are rejected for the same reasons as claims 20 and 22.

Response to Amendment

4. The 112-first paragraph rejections presented in the office action mailed August 25, 2003 are withdrawn for the “color similar to chrome” and “nitrogen free vacuum atmosphere” in light of the amendment. The other 112-first paragraph rejections stand. In addition, new rejections are presented above that are necessitated by the amendment.

5. The 112-second paragraph rejections presented in the office action mailed August 25, 2003 are withdrawn in light of the amendment.

Response to Arguments

6. Regarding the “homogeneous composition” new matter rejection, Applicant has argued that “the specification inherently discloses” the limitation. I don’t believe that it does. You haven’t pointed to any location in the specification to support your argument. You have merely made a statement without any factual support.

7. Regarding the claim to a “single” target, Applicant has argued that the specification discloses that “a sintered target is used”, but does not disclose where exactly that is. I am not going to look through the entire specification again to look for the letter “a” to support your argument. If you are making the argument, you need to support your argument with evidence. I don’t have to support your argument with evidence. I only have to support my arguments with

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evidence. You apparently have a specific location where you feel the specification states “a sintered target”. Tell me where that is. Don’t hide the ball. It is much more efficient for you to simply write down the location of the limitation in the specification and tell me where it is than for me to look for a needle in haystack by checking through 28 pages looking for three simple words.

8. Regarding Applicant’s arguments concerning the proposed re-instatement of the rejection involving Käumle, I am not re-instating the rejection. I do not feel that it would be obvious to use a single sintered target containing the titanium and aluminum contents that you have claimed.

General Information

For general status inquiries on applications not having received a first action on the merits, please contact the Technology Center 1700 receptionist at (703) 308-0661.

For inquiries involving Recovery of lost papers & cases, sending out missing papers, resetting shortened statutory periods, or for restarting the shortened statutory period for response, please contact Palestine Jenkins at (703) 308-3521.

For general inquiries such as fees, hours of operation, and employee location, please contact the Technology Center 1700 receptionist at (703) 308-0661.

Special Notice Regarding PTO Relocation to Alexandria, Virginia

During December 2003, the USPTO will begin its relocation to the Carlyle facility in Alexandria, Virginia. I am scheduled to move at some point in December 2003. At that time,

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my phone number will change. My new phone number will be (571) 272-1348. If you need to speak with me during December 2003, I recommend first calling my old area code 703 phone number. If that number has been disconnected, then try the new area code 571 phone number. Beginning January 2003, please discontinue use of the area code 703 phone number.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven H VerSteeg whose telephone number is (703) 305-4473. The examiner can normally be reached on Mon - Thurs (7:30 AM - 6:00 PM).

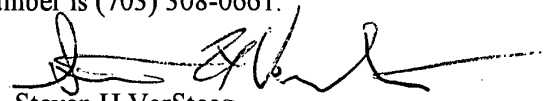
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X Nguyen can be reached on (703) 308-3322. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Steven H VerSteeg
Primary Examiner
Art Unit 1753

shv
November 20, 2003